IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 20995 of 2007(Y)

OA.213/2000 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

P. ARJUNAN,
"SASEENDRAM", VENGA (P.O), SASTHAMKOTTA,
KOLLAM DISTRICT-690 569.

BY ADV. SRI.K.MANOJ CHANDRAN

RESPONDENTS:

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1. THE RECOVERY OFFICER,
DEBTS RECOVERY TRIBUNAL, ERNAKULAM.

2. THE LORD KRISHNA BANK LTD.,
INDIAN EXPRESS BUILDING, KALOOR, KOCHI-17,
REPRESENTED BY ITS MANAGING DIRECTOR.

3. THE LORD KRISHNA BANK LTD.,
KOLLAM BRANCH, REPRESENTED BY ITS BRANCH MANAGER.

4. T.K. GEORGE VAIDIAN,
S/O. T.K.K. VAIDIAN, THENGUVILAYIL HOUSE,
THEVALAKKARA, KOLLAM.

5. LYLA ALEKUTTY VALSAN,
W/O. GEORGE VAIDIAN, THENGUVILAYIL HOUSE,
THEVALAKKARA, KOLLAM.

R1 BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR
R3 BY ADV. SRI.P.B.SURESH KUMAR
R4&5 BY ADV. SRI.R.RAMADAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE ORDER DT.19.6.2002 IN O.A. NO.213/2000.

P2: TRUE COPY OF RECOVERY CERTIFICATE NO.DRC NO.937 DT.26.8.2002.

P3: TRUE COPY OF THE PROCLAMATION OF SALE DT.20.11.2006.

P4: TRUE COPY OF TAKE DELIVERY LETTER DT.21.2.95.

P5: TRUE COPY OF DOCUMENT NO.769/1989 DT.9.3.1989.

P6: TRUE COPY OF LETTER ISSUED BY EXECUTIVE ENGINEER, PWD ROAD DIVISION, KOLLAM DT.16.1.07.

P7: TRUE COPY OF LETTER DT.18.1.2007 ISSUED BY THE BLOCK DEVELOPMENT OFFICER, KARUNAGAPPALLY.

P8: TRUE COPY OF LETTER DT.16.1.2007 ISSUED BY THE SUPERINTENDING ENGINEER, PWD, ROADS & BRIDGES SOUTH CIRCLE, TRIVANDRUM.

P9: TRUE COPY OF LETTER DT.30.1.2007 ISSUED BY THE REGIONAL TRANSPORT OFFICER, KARUNAGAPPALLY.

P10: TRUE COPY OF THE LETTER DT.25.1.2007 ISSUED BY PETITIONER TO R3.

P11: TRUE COPY OF STATEMENT OF OBJECTION DT.19.2.2007.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.20995 of 2007

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Dated this the 20th day of August, 2007.

JUDGMENT

The petitioner is challenging recovery proceedings initiated for sale of property mortgaged by petitioner for the loan availed by 4th respondent. Obviously mortgaged property will have to be sold, whether it belongs to the defaulter or guarantor. This court vide interim order dated 25.7.2007 directed the first respondent to sell the defaulter's property also, if petitioner furnishes details. Counsel for the petitioner submitted that petitioner has furnished details of properties of the defaulter to the first respondent. In the circumstances, W.P. is disposed of directing the first respondent to sell defaulter's property and property mortgaged by petitioner and any other guarantor. If the sale of defaulter's property fetches sufficient amount, then there is no reason why petitioner's property should be sold.

C.N.RAMACHANDRAN NAIR
Judge

pms